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JAMES HANNAHAM

ALSO PRESENT:

ALBERTO BASTIDA, Secretary, Zoning Commission
SHARON SANCHEZ, Office of Zoning
JENNIFER STEINGASSER, Office of Planning
ALAN BERGSTEIN, ESQ., D.C. Office of
Corporation
Counsel

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I N D E X

Preliminary Matters	6
Presentation by Chairperson Mitten	6
Presentation by Ms. Steingasser, Office of Planning.....	8
Persons in Opposition of the Amendment to the Capitol Gateway Overlay District	
Allison Prince	10
Commission Questions	13

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P-R-O-C-E-E-D-I-N-G-S

(6:35 p.m.)

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Thursday, September 26, 2002. My name is Carol Mitten, and joining me this evening are Vice Chairman Anthony Hood and Commissioner James Hannaham. We're expecting Commissioner Parsons.

Commissioner Herb Franklin will be reading a transcript of this evening's hearing, because he's going to stay with us through the conclusion of the Capitol Gateway Overlay District case.

The subject of this evening's hearing is Zoning Commission case number 96-03/89-01, which establishes the Capitol Gateway Overlay District formerly advertised as the Buzzard Point Overlay District. The purpose of this hearing is to consider three revisions made to the advertised rule by the Commission when it took proposed action on April 19, 2001 and when it determined to set down these issues for hearing on June 10, 2002. I think I misspoke; I think it was to a proposed action on April 19, 2002.

The Commission is therefore offering an

1 opportunity for public testimony on these issues.
2 Notice of today's hearing was published in the D.C.
3 Register on August 2, 2002 and in the Washington
4 Times on August 8, 2002. This hearing will be
5 conducted in accordance with the provisions of 11
6 DCMR Section 3021. Copies of today's hearing
7 announcement are available to you and are located on
8 the table near the door.

9 The order of procedure for this hearing
10 will be as follows: preliminary matters, followed
11 by the report of the Office of Planning, followed by
12 Reports of Other Government Agencies, testimony by
13 affected ANCs, organizations and persons in support,
14 organizations and persons in opposition.

15 The following time constraints will be
16 adhered to in this hearing as strictly as possible.
17 Organizations will have five minutes; individuals
18 will have three minutes. The Commission intends to
19 maintain these time limits as strictly as possible
20 in order to hear the case in a reasonable period of
21 time. The Commissioner reserves the right to change
22 the time limits for presentations if necessary, and
23 notes that no time shall be ceded.

24 All persons appearing before the
25 Commission are to fill out two witness cards. These
26 cards are located on the table near the door. Upon

1 coming forward to speak to the Commission, please
2 give both cards to the reporter who is sitting to
3 our right.

4 The decision of the Commission in this
5 case must be based on the public record. To avoid
6 any appearance to the contrary, the Commission
7 requests that persons present not engage the members
8 of the Commission in conversation during a recess or
9 at any other time.

10 Staff will be available throughout the
11 hearing to discuss procedural questions. Please
12 turn off all beepers and cell phones at this time so
13 as not to disrupt these proceedings.

14 I would note for the record that we have
15 now been joined by Commissioner Parsons. At this
16 time the Commission will consider any preliminary
17 matters. Mr. Bastida, do you have any preliminary
18 matters?

19 MR. BASTIDA: Madam Chairman, the staff
20 has no preliminary matters. Thank you.

21 CHAIRPERSON MITTEN: All right. Should
22 I briefly make a presentation of just the areas -- I
23 don't believe anyone's going to be making a
24 presentation -- just to introduce the text
25 amendments? Should I do that or did you want to do
26 that?

1 MR. BASTIDA: You can go ahead and do it
2 if you so wish.

3 CHAIRPERSON MITTEN: All right, if
4 everyone has the hearing notice in front of them.
5 There's two primary things that the Commission
6 wanted to consider adding to the Capitol Gateway
7 Overlay District language. One would be that hotels
8 would not be considered residential uses in the CR
9 zone within the overlay district.

10 The other was that applicants who would
11 otherwise have to seek special exception review in
12 the waterfront area or the waterfront zones or along
13 M Street, that's any other zoning relief that they
14 would need that would otherwise come from the BZA,
15 they could handle everything before the Zoning
16 Commission. Those are the two primary areas of
17 interest, and the hearing notice delineates how the
18 regulations would change.

19 I would also just note that we also have
20 a request from NCPC that they be a referring agency
21 or a referral agency under the special exception
22 rules as in other cases we have other referral
23 agencies, such as the architect of the Capitol and
24 the Capitol Interest Overlay, NCPC and the Naval
25 Observatory District and so forth.

26 So that's just a little overview, and

1 now I will turn to the Office of Planning, Ms.
2 Steingasser, if you had any comments.

3 MS. STEINGASSER: The Office of Planning
4 has no formal presentation. However, we do continue
5 to support the proposed text amendment as consistent
6 with the Capitol Gateway Overlay purposes.

7 CHAIRPERSON MITTEN: Thank you, and did
8 you have any comment on the request from NCPC to be
9 made a referral agency in the special exception
10 process?

11 MS. STEINGASSER: (no response)

12 CHAIRPERSON MITTEN: Let me just read
13 the few sentences in case you haven't seen them. We
14 recommend that the Zoning Commission add the
15 National Capital Planning Commission as a referral
16 agency in the special exception process outlined in
17 Section 1603 of the proposed regulation.

18 This approval process will only apply to
19 development of proposals in the BPW-2 zoning
20 district and will give NCPC an opportunity to
21 provide comments to the Zoning Commission on impacts
22 on the Federal interest as defined above.

23 They have a strong interest in this
24 given their participation in the Anacostia
25 waterfront initiative, the South Capitol Street
26 study, and the Monuments and Museums Master Plan.

1 MS. STEINGASSER: At this time, I do not
2 have a comment on it.

3 CHAIRPERSON MITTEN: All right.

4 MS. STEINGASSER: I'm sorry.

5 CHAIRPERSON MITTEN: Thank you. Any
6 questions for Ms. Steingasser?

7 We don't have any reports from any --
8 oh, Mr. Hood?

9 VICE CHAIRPERSON HOOD: I'm not sure if
10 Ms. Steingasser is prepared tonight to answer this.
11 I think I still have a concern about why we're not
12 including hotels in the CR zone as not being used as
13 a residential use. I don't think, either I fully
14 don't understand it, or I'm not sure why that's even
15 there, I guess.

16 I believe I had a problem with it
17 earlier. I'm trying to remember. Okay, it sparked
18 a light to me.

19 MS. STEINGASSER: The intent was to, not
20 to discourage hotels -- well the intent was not to
21 prohibit hotels in the CR zone but to keep them from
22 earning bonus residential density and for having
23 them quality as full residential units so that they
24 would not be developed in lieu of residential,
25 permanent residential apartment complexes or
26 condominiums, so that we would have more of a

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1 permanent population base residing there on a
2 regular basis, as opposed to a transient type of
3 base (inaudible).

4 Because under the current CR zone the
5 hotel could maximize the FAR and build to a full six
6 FAR within that zone. We would not get the
7 residential permanent residency base of a
8 neighborhood that we're trying to achieve.

9 VICE CHAIRPERSON HOOD: Okay. Thank
10 you. Madam Chair, I'll just wait to hear from
11 anyone that's offering testimony.

12 CHAIRPERSON MITTEN: All right, thank
13 you, Mr. Hood. I don't see anyone from any affected
14 ANC here tonight, and I don't believe we have any
15 reports from either of the ANCs.

16 MR. BASTIDA: That is correct, Madam
17 Chairman.

18 CHAIRPERSON MITTEN: All right, then we
19 will move to organizations and persons testifying in
20 support. Anybody who would like to come to the
21 table and testify in support? Okay, no one's coming
22 forward.

23 Now we'll move to organizations and
24 persons testifying in opposition.

25 MS. PRINCE: Good evening. My remarks
26 will be brief. I'm Allison Prince of Shaw Pittman.

1 I'm testifying tonight on behalf of Riverside
2 Associates Limited Partnership, the owner of the
3 largest site within the proposed overlay area. It
4 consists of a full eight acres. As you're aware,
5 it's subject to the PUD extension that was recently
6 granted by this Commission.

7 Riverside wishes to express its strong
8 opposition to the latest revisions. At the meeting
9 at which the revision was discussed, the Commission
10 proposed that in the CR zone portion of the overlay
11 hotels would not count as residential as they do in
12 the underlying CR zone and the rest of the city.
13 You expressed concern about the potential for an
14 over concentration of hotels in the area, and you
15 cited the West End as an example of an area where
16 there is perhaps an over concentration of hotels.

17 I can state as someone who works in West
18 End and enjoys being there daily that while there
19 are several hotels, the hotel development in fact
20 spurred a lot of the office development, which has
21 ultimately spurred a lot of the residential
22 development. It was the hotel office combination
23 that was particularly effective in the West End.
24 It's the hotel office combination that will be
25 stopped or at least severely precluded by the
26 proposed text amendment.

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1 While one could see this as an
2 opportunity to encourage residential at the expense
3 of hotels, if hotels spur development, I think we
4 need to look at anything that will spur development
5 in this area. Once the activity begins, once the
6 enhanced safety begins, once people recognize the
7 beauty of the waterfront, I believe residential
8 development will come. But I don't believe it will
9 necessarily come first. I think anything to get any
10 level of development in that area is a positive
11 thing.

12 I don't think we can consider hotels in
13 a vacuum. I think we have to look at them as a
14 critical component piece of what it might take to
15 turn this area into something that it isn't now. It
16 may be many, many years before we achieve what we
17 want to achieve there, so we've got to get something
18 going.

19 From the perspective of my client who
20 controls other property in the area as well, their
21 feeling is we don't want to be restricted in any
22 way. We'll live with the overly; the overlay's a
23 good thing. But we don't want to be restricted on
24 the hotel front, because if that's the first
25 critical component piece, that's the first domino
26 that gets it all going, why on earth wouldn't we

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1 want to encourage that?

2 The hotel restriction may have the
3 effect of lowering the market values and development
4 potential of the area. It may prevent the economic
5 conditions necessary to sustain a comprehensive
6 urban renewal. The restriction may nip the very
7 redevelopment efforts that we're trying so hard to
8 attain in the bud.

9 As we know, the Riverside PUD is a
10 residential commercial combination. It may not be
11 immediately affected by this hotel restriction, so
12 we're really speaking on behalf of the area in
13 general. I think if a very important developer
14 wanted to do a major hotel office complex in Buzzard
15 Point within the zoning envelope that we've
16 discussed, I can't imagine that any of us would be
17 opposed to that. I can't imagine why we'd be
18 opposed to that.

19 So I'd really ask that you reconsider
20 what it is you're trying to achieve. If there's an
21 over concentration of hotels, if that materializes
22 after a few years, revisit the overlay. But for
23 goodness sake, why restrict it before we've even got
24 out of the box with a significant project.

25 Those are my comments for this evening.
26 If you have any questions, I'd be happy to answer

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1 them, or we can go home. Thank you.

2 CHAIRPERSON MITTEN: Any questions for
3 Ms. Prince? Mr. Hannaham?

4 COMMISSIONER HANNAHAM: I think your
5 arguments make a lot of sense really. I just
6 wondered whether you could go a little further. I
7 know you cited the fact that you live in the West
8 End area and that --

9 MS. PRINCE: No, I don't live in the
10 West End area; I work in the West End area.

11 COMMISSIONER HANNAHAM: I'm sorry, but
12 you're familiar with the way things developed in
13 West End.

14 MS. PRINCE: Well, a very large
15 apartment building was just constructed next door to
16 our office building. It completes the square.
17 There are significant residential buildings in the
18 West End. Our associates tend to live in them. We
19 have four or five associates in our department right
20 now that live in the same block that we work in.

21 I had the same reservations about West
22 End as you did, Chairman Mitten, until I started
23 working there and realizing what a vibrant
24 residential community it was as well as an office
25 community.

26 The hotel piece of it rounds it all out

1 quite nicely. I mean, there are in fact a lot of
2 hotels in West End, but where did the Ritz Carlton
3 choose to locate? The West End. After there were
4 already three major hotels within a block so the
5 market does help dictate that, but the Ritz Carlton
6 didn't drive out a brand new apartment building next
7 to, on a vacant site next to 2300 N.

8 There's nothing there. I spend a lot of
9 time in Capitol Gateway. I'm sure you all have as
10 well. I just cannot believe that we wouldn't all be
11 extremely excited about a major hotel chain teaming
12 up with a major developer and giving us the kind of
13 project we want.

14 As I said, you can always exercise the
15 opportunity to revisit overlays. This Commission
16 has the ability to act on an emergency basis if the
17 need arises. But I cannot see the call for it at
18 this point based on what I see there today and how
19 long we've been working on the Buzzard Point
20 overlay. I mean, since 1986, it goes back to the
21 first year.

22 COMMISSIONER HANNAHAM: I didn't realize
23 that.

24 MS. PRINCE: It began in '86 as Mr.
25 parsons will remember. That was the initial Zoning
26 Commission case, and there has not been a lot

1 accomplished in terms of development. There's been
2 a tremendous amount accomplished in terms of
3 planning, great, great strides. But let's get those
4 first projects that can get everybody fired up.
5 Riverside obviously if that goes, that will be one
6 of the more significant tracts.

7 COMMISSIONER HANNAHAM: So you're not,
8 you feel as though there still, there may still be
9 an option, there may still be an interest by
10 developers to do something in the way of a hotel in
11 that area and that this would discourage that.

12 MS. PRINCE: It would discourage it in
13 the sense that it counts toward the office FAR, so
14 there's a very diminished capacity for a combined
15 hotel office project. That's a combination that
16 developers are comfortable with. That's something
17 we see a lot.

18 I did not do a lot of research. We
19 didn't retain any kind of expert. As you can see
20 from the lack of interest in tonight's hearing, I
21 think the industrial users are simply not involved
22 at this point. And some of the other large
23 developers are just getting involved in the area.
24 So I don't speak with a lot of expert experience.
25 I'm simply anecdotal.

26 But the CR zone, I believe, has been a

1 successful zone in the city. That's my observation
2 over the years.

3 COMMISSIONER HANNAHAM: So if it ain't
4 broke, don't fix it.

5 MS. PRINCE: I don't think it's broke.
6 I don't think it is.

7 COMMISSIONER HANNAHAM: Okay. I thank
8 you very much.

9 CHAIRPERSON MITTEN: Thank you, Mr.
10 Hannaham. Mr. Hood?

11 VICE CHAIRPERSON HOOD: I'll be very
12 brief, Madam Chairperson. Ms. Prince, I would just
13 ask if you would give us your comments in writing.
14 I would really appreciate it. I do also think we
15 need to jump start. I agree with your comments and
16 we don't need to start off with restrictions. Thank
17 you, Madam Chair.

18 CHAIRPERSON MITTEN: Thank you. Any
19 other questions? All right, thanks for testifying
20 tonight.

21 MS. PRINCE: Thank you.

22 CHAIRPERSON MITTEN: I guess that's it.
23 So I guess we can, can we close the record tonight.

24 MS. STEINGASSER: Madam Chair?

25 CHAIRPERSON MITTEN: Yes, Ms.
26 Steingasser.

1 MS. STEINGASSER: The Office of Planning
2 would request that the record stay open long enough
3 for us to review and respond to the NCPC comments.

4 CHAIRPERSON MITTEN: All right. How
5 long do you think you need for that?

6 MS. STEINGASSER: Just one week.

7 CHAIRPERSON MITTEN: Okay. Mr. Bastida,
8 could you just give me the date of next Thursday.

9 MR. BASTIDA: Why don't we kindly give
10 them until Friday, noon.

11 CHAIRPERSON MITTEN: Okay, then give me
12 the date of Friday.

13 MR. BASTIDA: Okay, that would be
14 Friday, October the 4th, at 12:00 noon.

15 CHAIRPERSON MITTEN: Okay, so the record
16 will remain open until Friday, October 4th, in order
17 to receive comments from the Office of Planning on
18 the NCPC letter. Other than that, I'll just keep
19 the closing statement brief and declare this public
20 hearing adjourned.

21 MR. BASTIDA: Thank you.

22 (Whereupon, the foregoing matter went
23 off the record at 6:52 p.m.)

24